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CHAD COSTANZA

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	No. 2:11-cr-0157-JCM-PAL
)	
Plaintiff,)	EMERGENCY MOTION FOR
)	PERMISSION FOR DEFENDANT TO
vs.)	RETURN TO LAS VEGAS FOR
)	PRETRIAL PREPARATION AND
CHAD COSTANZA,)	INVESTIGATION.
)	
Defendant.)	

CERTIFICATION

It is hereby certified that the above-captioned motion is filed in a timely manner.

COMES NOW, Chad Costanza, by and through his attorney DAMIAN R. SHEETS, ESQ., and files this Motion for Permission for Defendant to Return to Las Vegas for Pretrial Preparation and Investigation.

DATED this 30th day of April, 2012.

s/Damian R. Sheets, Esq. _____
DAMIAN R. SHEETS, ESQ.
Attorney for Defendant
Nevada Bar No. 10755
551 Gass Avenue
Las Vegas, Nevada 89101
702-598-1299

STATEMENT OF FACTS

Defendant, Chad Costanza, by and through his counsel, hereby moves for permission to bring Mr. Costanza back to the District of Nevada on May 2, 2012 through May 3, 2012, so that he may meet with counsel and an expert the defense plans on disclosing for the purposes of trial. Mr. Costanza was arrested on April 12, 2011 and indicted on charges of Coercion and Enticement, in violation of 18 U.S.C. §2422(b). A detainer hearing was held on April 28, 2011, at which time Mr. Costanza was released on a twenty-five thousand dollar (\$25,000) unsecured bond. Upon his release from custody, Mr. Costanza was given several conditions to abide by, but he was allowed to travel from the state of Nevada to reside with his parents in the state of New York. The bond filed in this case specifically states that the defendant may travel to the District of Nevada for "Court Purposes Only".

After speaking with several potential experts, counsel has finally found one willing to assist in this case, however, due to his busy schedule, he was unable to meet with the defendant until May 2, 2012. Mr. Costanza promptly contacted his pretrial officer in New York, but was told that he would not be allowed to return to Las Vegas without the permission of the Court. Counsel was informed of this and immediately contacted Assistant United States Attorney Nancy Koppe to see if a possible agreement could be reached. While being very helpful in attempting to quickly resolve this issue, Ms. Koppe has informed counsel that she is unclear how meeting with a psychiatrist is for court purposes, and as a result, no resolution between the parties can be reached. Because the testimony of this expert is extremely helpful and goes directly to the theory of Mr. Costanza's defense, because this expert was only recently found after substantial inquiry into such an expert, because this expert is not available to leave the State of Nevada, and because the trial is scheduled to be conducted here in Las Vegas, Counsel

1 submits this motion to the instant court in the hopes that it will allow Mr. Costanza to return to
2 Las Vegas between May 2 and May 3, 2012, for the purposes of meeting with his counsel, his
3 experts, and preparing his defense.

4 Because counsel only learned of this issue last Thursday, because counsel did not expect
5 that the government would prevent the defendant from meeting with his counsel or with experts,
6 because counsel only learned that no resolution was possible around 1:15pm today, counsel
7 respectfully files this motion at the eleventh hour and asks for emergency relief.
8

9 **ARGUMENT**

10 **THIS COURT SHOULD ALLOW THE DEFENDANT TO RETURN TO LAS**
11 **VEGAS SO THAT HE MAY PREPARE A LAWFUL DEFENSE.**
12

13 The Sixth Amendment of the United States Constitution affords the defendant the right to
14 have the assistance of counsel for his defense. Additionally, the defendant has a constitutional
15 right to assert any valid defense of law.

16 Meeting with counsel and experts are critical when it comes to a defendant's preparation
17 for trial. Mr. Costanza is only asking for two days to return to Nevada in order to meet with this
18 expert and with counsel. Because of the fact that Mr. Costanza is in New York, and the case is
19 here in Nevada, finding an expert has been very difficult, and now that one has been located, it is
20 imperative that Mr. Costanza be allowed to meet with him. Mr. Costanza is facing the possibility
21 of life in prison if convicted of the charge, and, as such, he should be allowed to confer with
22 counsel and his expert, IN PERSON, prior to trial. To deny him this right would be to deny him
23 his rights under the sixth amendment of the United States Constitution.
24
25

26 Furthermore, the undersigned finds it difficult to understand how the government can
27 take the position that a visit with counsel and an expert and in preparation for trial is not "for
28

1 Court Purposes". Following that logic, counsel could be prevented from seeing his client and his
2 client prevented from meeting with anyone outside where he is specifically located. If the expert
3 or counsel were in New York, there would be no problem. Unfortunately, however, because this
4 case is here and Mr. Costanza's custodian is in New York, things are tougher. Finding an expert
5 who would be willing to go to New York to meet with Mr. Costanza and to return to Las Vegas
6 to testify has not only been impossible, but would be expensive and unaffordable to Mr.
7 Costanza. Allowing Mr. Costanza to return to Las Vegas for this limited purpose is certainly
8 logical, and, as such, this Court should allow it.
9

10
11 **CONCLUSION**

12 Based on the foregoing, it is only logical that the defendant be allowed to travel to Las
13 Vegas on May 2, 2012, and return to New York on May 3, 2012.

14 DATED this 30th day of April, 2012.
15

16
17 s/Damian R. Sheets, Esq. _____
18 DAMIAN R. SHEETS, ESQ.
19 Attorney for Defendant
20 Nevada Bar No. 10755
21 551 Gass Avenue
22 Las Vegas, Nevada 89101
23 702-598-1299
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CERTIFICATE OF SERVICE

I, DAMIAN R. SHEETS, ESQ., do hereby certify that on April 30, 2012, a copy of the attached Motion for Permission for Defendant to Return to Las Vegas for Pretrial Preparation and Investigation was sent by United States Mail to the person hereinafter named:

Nancy Koppe
Assistant United States Attorney
333 South Las Vegas Blvd
Lloyd George Federal Building
Las Vegas, NV 89101

s/Damian R. Sheets, Esq.
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